

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

RUBEN ALBA,

*Plaintiff,*

v.

WALGREEN CO.

*Defendant.*

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CIVIL ACTION NO.: 3:21-cv-164

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**DEFENDANT’S NOTICE OF REMOVAL**

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Defendant Walgreen Co. files this Notice of Removal from state court in accordance with 28 U.S.C. §§ 1332, and 1441, and in support thereof, respectfully shows the following:

**I. INTRODUCTION**

1. Defendant Walgreen Co. removes this state-law action brought by its former employee, Plaintiff Ruben Alba, based upon diversity jurisdiction. *See* 28 U.S.C. § 1441(a). Walgreen Co. and Alba are citizens of different states, and Alba seeks damages in excess of the \$75,000 threshold required for the exercise of diversity jurisdiction. Walgreen Co. also files this Notice of Removal within thirty days of service of Plaintiff’s Original Petition as required by 28 U.S.C. § 1446(b).

**II. FACTUAL BACKGROUND**

2. On June 14, 2021, Plaintiff Ruben Alba filed a lawsuit styled *Ruben Alba v. Walgreens Co.*, in the 327<sup>th</sup> Judicial District Court, El Paso County, Texas. [See Ex. A, Pl.’s Orig. Pet.] In his lawsuit, Alba asserts a single claim for age discrimination under Section 21.051 of the Texas Labor Code and seeks a variety of damages, including general damages,

special damages, punitive damages, attorneys' fees, and expert fees. [*Id.*, at 6–7.] Alba expressly seeks “monetary relief over \$250,000, but not more than \$1,000,000.” [*Id.*, at 7.]

3. Alba served his lawsuit on Defendant Walgreen Co., on June 17, 2021, and Walgreen Co. filed its Answer in state court on July 12, 2021. [*See* Ex. B, Walgreen Co. Citation; Ex. C, Walgreen Co.'s Gen. Denial & Defs.] Walgreen Co. now files this Notice of Removal within thirty days of receiving service of process of Plaintiff's Original Petition as required by 28 U.S.C. § 1446(b). [*See* Ex. B, Walgreen Co. Citation.]

### **III. ARGUMENTS & AUTHORITIES**

4. Under 28 U.S.C. § 1441, a defendant may remove to federal court “any civil action brought in a State court of which the district courts of the United States have original jurisdiction.” In the present case, the Court possesses original jurisdiction based on diversity because “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different states.” 28 U.S.C. § 1332(a).

5. Alba is a resident of the State of Texas and has resided there at all times material to this lawsuit.

6. Walgreen Co. is incorporated in the State of Illinois and its principal place of business is in Deerfield, IL.

7. It is facially apparent from Alba's Original Petition that the amount in controversy exceeds \$75,000. Alba seeks a variety of damages, including general damages, special damages, punitive damages, attorneys' fees, and expert fees. [*See* Ex. A, Pl.'s Amend. Compl., at 7–8.] Indeed, Alba expressly seeks “monetary relief over \$250,000.” [*Id.* at 7.]

4. Venue is proper in the Western District of Texas, El Paso Division, under 28 U.S.C. §1446(a). The removed action is pending in Western District of Texas, El Paso

Division, and a substantial part of the events giving rise to Alba's state law claim allegedly occurred there. [*See generally* Ex. A, Pl.'s Orig. Pet.]

5. Pursuant to 28 U.S.C. § 1446(a), Walgreen Co. attaches to this Notice of Removal true and correct copies of Alba's Original Petition (Ex. A), the Citation issued to Walgreen Co. (Ex. B), Walgreen Co.'s General Denial and Defenses (Ex. C), true and correct copies of the state court's Docket Sheet (Ex. D), and the State Court Notice of Removal (Ex. E), which constitute all process, pleadings, and orders served to date or that will be served to date.

6. Pursuant to 28 U.S.C. § 1446(d), promptly after this Notice is filed with this Court, Walgreen Co. will serve written notice of its filing on Plaintiff. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice also will be filed with the clerk of the 327th District Court of El Paso County, Texas.

#### **IV. CONCLUSION & PRAYER**

For the foregoing reasons, Defendant Walgreen Co. asks the United States Court for the Western District of Texas, El Paso Division, to assume jurisdiction over this action, as a whole, based upon diversity jurisdiction and supplemental jurisdiction. Walgreen Co. additionally prays for all other relief to which it may be entitled.

Respectfully submitted,

/s/ Shannon B. Schmoyer

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**ATTORNEYS FOR DEFENDANT  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served *via Court's E-Filing system* to:

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**ATTORNEY FOR PLAINTIFF**

on this 15<sup>TH</sup> day of July, 2021.

/s/ Shannon B. Schmoyer  
Shannon B. Schmoyer